

*Testimony by Eli M. Noam*

*Preliminary Draft*

*Professor of Finance and Economics, Columbia University, Director,  
Columbia Institute for Tele-Information; former Commissioner of  
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Chairman Hollings, Senator McCain, members of the Commerce Committee, I am grateful to join you in discussing the important topic of media concentration and ownership rules. Let's start by agreeing that we all share an *intense* desire not to let the diversity of media voices be strangled by a few big companies. But the question is how to go about it.

There are many elements of ownership rules. Caps, cross-ownerships, foreign-domestic, minority. Each raises different issues. I will focus here on the national cap for TV broadcasters, though I'll be happy to address other issues as well later.

It would probably help us all if we first looked at the extent of media concentration, because that would take the edge of alarm off.

Yes, there have been lots of mergers. Some are troubling, some are not. Going beyond the specific deal, the more important question is, in the aggregate, have American media become more concentrated?

Despite the conventional wisdom, or books based on anecdotes rather than data, the answer is not an obvious "yes." First, while the fish in the pond have grown in size, the pond did grow, too, and faster. The growth of the information industry has been 8% faster than inflation since 1987. Second, there have been a lot of new fish. Giant Companies such as AOL, Microsoft, Viacom, Qwest, hardly existed a few years ago. Foreign companies such as Bertelsmann and

Vivendi are contesting the American market. Third, there are new and rapidly growing ponds, like the internet; and fourth, all these separate ponds are becoming more of a large lake, as the technological and regulatory dikes between them fall.

When it comes to concentration, views are strong, but numbers are scarce. Therefore, at one study at Columbia we collected market share numbers, industry by industry, company by company, for 60 media and information sub-industries from book publishing to film production to internet service provision and consumer electronics, in order to trace the concentration trends since the early 80s, after the ATT divestiture. This is probably the most detailed study ever of media concentration in America. It is confirmed by another study, by Ben Compaine, formerly of Harvard. Unfortunately, we did the study 3 years ago. I am updating it, but I had only 3 days since your invitation, including the weekend. But I will provide you with them when we have updated the work.

What did we find? Surprisingly, the overall concentration of the entire information sector, defined to including also telecommunications and the IT sector, did not increase, but declined somewhat in the past two decades. Or rather, first it went down, then it rose, but not to the level that existed before. If this surprises you, just remember that 20 years ago, there were 3 major TV companies, 1 computer company, and 1 telecom company. The combined share of the top 10 companies in the US information industry declined from 59% in 1987 to 39% in 1998, even as the total size of most companies increased.

Of one looks at the classic mass media industries alone, they did indeed increase in concentration but remained unconcentrated by Justice Department standards. (I should add that I do believe that for media, antitrust standards should be interpreted more stringently than for other industries because of their special importance, and because of the undesirability and

unconstitutionality of direct regulatory interventions). The weighted average of 4 firm market share for the mass media industries was 33% in 1986. It then fell to 27.5 and rose to 40% again.

For the 3 networks, it declined from 70 to 53 percent. For local TV stations, the top 4 firms share rose nationally from 15 to 26%. For cable TV distribution, it rose from 37 to 60%.

The main factors increasing the rise in the mass media concentration figures were cable television systems (accounting for half) and home video (accounting for 20%). Concentration also increased in TV station ownership and retail bookstores, and more than doubled in radio station ownership and book publishing. There is one very large owner of radio stations. But even it owns only 11% of all stations and accounts for 15 % of revenues. And the number of radio stations grew by 800 in the past 3 years. The number of TV stations increased since 1984 by 37%, or about 400 stations. The top four firms still have only about quarter of these markets, as measured by revenue. In other industries, concentration held relatively steady. Film production remained fairly concentrated but steady, with the top four firms controlling 60%. The national movie theater, newspaper and magazine markets remained relatively unconcentrated, with the top four firms accounting for a quarter of sales.

Therefore, it cannot be said that US media have become, in general, more concentrated. Some segments have, others have become *less* concentrated. Still, the next question then must be raised: even if a firm does not dominate any specific market, could it not be overpowering by being a medium sized firm in every market? The fear is that vertically integrated firms will dominate by having their tentacles in each pie. But in economic terms, this can only happen if a firm has real market power in at least one market, which it then extends and leverages into other.

But where markets are competitive, vertical integration makes little sense. Disney should not earmark its best programs for ABC if other networks offer more money. Conversely, for Disney to force its lemons on the ABC television network would only hurt the company.

Does this mean there is no concentration problem? No. But the real problems in media concentration are not national, but local, 98.5% of American cities –though less of a share of people-- have only one newspaper. (But you rarely will find editorials castigating this concentration...) Most American homes have no choice in their cable provider, though DBS is changing that. This is why a cap on cable ownership can be more easily justified than for broadcasting, where no local power exists that in the aggregate could exclude channels the way that the largest of cable companies could. Alternative local residential phone service may be coming, but is not here yet. That's why local interconnection is regulated. And the absence of competition in local telecommunications might justify a higher cap on cable where it becomes an active rival to telecom, as in ATT's original strategy. Local radio concentration has increased considerably since the Telecommunications Act of 1996 relaxed local ownership ceilings, and may become more of a problem than national radio concentration. On the other hand, the ownership of multiple radio outlets in a community has also increased program diversity, because a firm that buys an additional station in a market will target new audiences rather than cannibalize its existing ones.

In broadcasting, we've had a set of rules established when 2 and a half TV networks, all headquartered in Manhattan within a few blocks, supplied the TV programming for most Americans. But the ownership rules didn't really change that. What did create the change was the entry of cable television that now provides almost 70% of Households with a menu of about 55 channels, on average. Satellite TV reaches another 15 percent or so of households. Both of these media can program scores of channels, and can also charge subscription and per view fees, which gives them a much stronger base than advertising revenues. Today, the top 4 networks have barely 50% of the audience and keep shrinking inexorably. There are over 200 cable channels being offered. Thus, broadcasting is a pale shadow of its former self. Only a small audience slice watches the classic over-the-air VHF TV. If one additional Supreme Court justice changes his view and votes against broadcast TV's must-carry rights, the industry will be going into a tailspin. Cable operators will do separate deals with the major network and

syndicators for direct program feeds, bypassing local broadcasters, and will gradually create or contract with local providers such as newspapers for the news programs. And as that happens, broadcast stations' spectrum rights will be its most important asset, not its broadcast operations.

And that's just today's challenge. In the near future, with high speed internet rising in penetration; it will become an additional medium for the distribution of mostly national and even global programs, often of new and interactive kinds, which are not possible for broadcasters.

Broadcasting has now been given a second chance, through digital TV with its multicasting potential. So far, this has been a total failure. But the concept of broadcast TV as a multi-channel medium with each station broadcasting half a dozen of programs may become the lifeline for that industry as it competes against cable. It is also a high cost proposition that will challenge the smaller firms.

The increasing fragmentation of audiences through narrow casting also leads to a decline of localism. Local programming, outside the news, was always more asserted than practiced, with some noteworthy exceptions. The economics here are basic. Any professional TV program is expensive to produce but cheap to reproduce. Therefore, national networking is the economically logical way to go. It's been that way since early radio. And if audiences get fragmented locally, they have to be aggregated nationally. So there are fundamental and increasing incentives towards national electronic media. Conversely, whatever local production or preemption or syndication that draws audiences will be practiced by stations based on local conditions, whatever the ownership is, since they have to contest nightly for audiences.

So this is an industry in intense transition, much more in trouble than it often recognizes itself, and this then leads to fundamental restructuring as a response. You can constrain it, but then you might end up with the electronic equivalent of the railroads and other rustbelt industries.

I am more concerned with the question of impact on minority ownership. But here, even under the old system, minority ownership has been miniscule, and if one wants to achieve it one should find other ways.

There are also costs to this cap restriction. It prevents larger companies from seeking new licenses, or acquiring weak UHF stations, because they count as part of aggregate ownership. Just as cross-ownership restrictions can reduce the number of stations, as well as sometimes of second-tier newspapers. And this deprives communities of additional stations and voices.

Much of what this fight over ownership caps is about the relative bargaining strength between station groups and networks. That's vital to the participants, but does not obviously an issue of issue of protection of local content. It's ultimately an empirical matter for study, whether local programming in a competitive local market is affected by ownership or cross-ownership at all. Since we have various exceptions for every rule around the country, this can be determined.

To conclude, it seems to me that if you want to achieve local content, there are approaches that are more direct than working through ownership, such as a certain amount of local program production as a requirement of licensing, or an open a time slot for local access to TV, or the licensing of additional broadcasters such as LPTV, or the right to reply. The fact that most proponents of localism do not advocate such direct policies towards localism tells me that this fight isn't really about localism.

And if that's the case, you should not become the arbiter between several industries, TV networks, station groups, and Hollywood syndicators. Media industries cherishing their independence should not call for the government to regulate them. It's asking for trouble. But if one can show clear and convincing public harm, that's one thing. If one can show local media power that permits its vertical extension, then some protective rules may be in order. But in the absence of such showing, I would not perpetuate old rules of national broadcasting ownership caps in an environment of new media.

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And that's just today's challenge. In the near future, with high speed internet rising in penetration; it will become an additional medium for the distribution of mostly national and even global programs, often of new and interactive kinds, which are not possible for broadcasters.

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What did we find? Surprisingly, the overall concentration of the entire information sector, defined to including also telecommunications and the IT sector, did not increase, but declined somewhat in the past two decades. Or rather, first it went down, then it rose, but not to the level that existed before. If this surprises you, just remember that 20 years ago, there were 3 major TV companies, 1 computer company, and 1 telecom company. The combined share of the top 10 companies in the US information industry declined from 59% in 1987 to 39% in 1998, even as the total size of most companies increased.

Of one looks at the classic mass media industries alone, they did indeed increase in concentration but remained unconcentrated by Justice Department standards. (I should add that I do believe that for media, antitrust standards should be interpreted more stringently than for other industries because of their special importance, and because of the undesirability and

unconstitutionality of direct regulatory interventions). The weighted average of 4 firm market share for the mass media industries was 33% in 1986. It then fell to 27.5 and rose to 40% again.

For the 3 networks, it declined from 70 to 53 percent. For local TV stations, the top 4 firms share rose nationally from 15 to 26%. For cable TV distribution, it rose from 37 to 60%.

The main factors increasing the rise in the mass media concentration figures were cable television systems (accounting for half) and home video (accounting for 20%). Concentration also increased in TV station ownership and retail bookstores, and more than doubled in radio station ownership and book publishing. There is one very large owner of radio stations. But even it owns only 11% of all stations and accounts for 15 % of revenues. And the number of radio stations grew by 800 in the past 3 years. The number of TV stations increased since 1984 by 37%, or about 400 stations. The top four firms still have only about quarter of these markets, as measured by revenue. In other industries, concentration held relatively steady. Film production remained fairly concentrated but steady, with the top four firms controlling 60%. The national movie theater, newspaper and magazine markets remained relatively unconcentrated, with the top four firms accounting for a quarter of sales.

Therefore, it cannot be said that US media have become, in general, more concentrated. Some segments have, others have become *less* concentrated. Still, the next question then must be raised: even if a firm does not dominate any specific market, could it not be overpowering by being a medium sized firm in every market? The fear is that vertically integrated firms will dominate by having their tentacles in each pie. But in economic terms, this can only happen if a firm has real market power in at least one market, which it then extends and leverages into other.

But where markets are competitive, vertical integration makes little sense. Disney should not earmark its best programs for ABC if other networks offer more money. Conversely, for Disney to force its lemons on the ABC television network would only hurt the company.



Does this mean there is no concentration problem? No. But the real problems in media concentration are not national, but local, 98.5% of American cities –though less of a share of people-- have only one newspaper. (But you rarely will find editorials castigating this concentration...) Most American homes have no choice in their cable provider, though DBS is changing that. This is why a cap on cable ownership can be more easily justified than for broadcasting, where no local power exists that in the aggregate could exclude channels the way that the largest of cable companies could. Alternative local residential phone service may be coming, but is not here yet. That's why local interconnection is regulated. And the absence of competition in local telecommunications might justify a higher cap on cable where it becomes an active rival to telecom, as in ATT's original strategy. Local radio concentration has increased considerably since the Telecommunications Act of 1996 relaxed local ownership ceilings, and may become more of a problem than national radio concentration. On the other hand, the ownership of multiple radio outlets in a community has also increased program diversity, because a firm that buys an additional station in a market will target new audiences rather than cannibalize its existing ones.

In broadcasting, we've had a set of rules established when 2 and a half TV networks, all headquartered in Manhattan within a few blocks, supplied the TV programming for most Americans. But the ownership rules didn't really change that. What did create the change was the entry of cable television that now provides almost 70% of Households with a menu of about 55 channels, on average. Satellite TV reaches another 15 percent or so of households. Both of these media can program scores of channels, and can also charge subscription and per view fees, which gives them a much stronger base than advertising revenues. Today, the top 4 networks have barely 50% of the audience and keep shrinking inexorably. There are over 200 cable channels being offered. Thus, broadcasting is a pale shadow of its former self. Only a small audience slice watches the classic over-the-air VHF TV. If one additional Supreme Court justice changes his view and votes against broadcast TV's must-carry rights, the industry will be going into a tailspin. Cable operators will do separate deals with the major network and

syndicators for direct program feeds, bypassing local broadcasters, and will gradually create or contract with local providers such as newspapers for the news programs. And as that happens, broadcast stations' spectrum rights will be its most important asset, not its broadcast operations.

And that's just today's challenge. In the near future, with high speed internet rising in penetration; it will become an additional medium for the distribution of mostly national and even global programs, often of new and interactive kinds, which are not possible for broadcasters.

Broadcasting has now been given a second chance, through digital TV with its multicasting potential. So far, this has been a total failure. But the concept of broadcast TV as a multi-channel medium with each station broadcasting half a dozen of programs may become the lifeline for that industry as it competes against cable. It is also a high cost proposition that will challenge the smaller firms.

The increasing fragmentation of audiences through narrow casting also leads to a decline of localism. Local programming, outside the news, was always more asserted than practiced, with some noteworthy exceptions. The economics here are basic. Any professional TV program is expensive to produce but cheap to reproduce. Therefore, national networking is the economically logical way to go. It's been that way since early radio. And if audiences get fragmented locally, they have to be aggregated nationally. So there are fundamental and increasing incentives towards national electronic media. Conversely, whatever local production or preemption or syndication that draws audiences will be practiced by stations based on local conditions, whatever the ownership is, since they have to contest nightly for audiences.

So this is an industry in intense transition, much more in trouble than it often recognizes itself, and this then leads to fundamental restructuring as a response. You can constrain it, but then you might end up with the electronic equivalent of the railroads and other rustbelt industries.

I am more concerned with the question of impact on minority ownership. But here, even under the old system, minority ownership has been miniscule, and if one wants to achieve it one should find other ways.

There are also costs to this cap restriction. It prevents larger companies from seeking new licenses, or acquiring weak UHF stations, because they count as part of aggregate ownership. Just as cross-ownership restrictions can reduce the number of stations, as well as sometimes of second-tier newspapers. And this deprives communities of additional stations and voices.

Much of what this fight over ownership caps is about the relative bargaining strength between station groups and networks. That's vital to the participants, but does not obviously an issue of issue of protection of local content. It's ultimately an empirical matter for study, whether local programming in a competitive local market is affected by ownership or cross-ownership at all. Since we have various exceptions for every rule around the country, this can be determined.

To conclude, it seems to me that if you want to achieve local content, there are approaches that are more direct than working through ownership, such as a certain amount of local program production as a requirement of licensing, or an open a time slot for local access to TV, or the licensing of additional broadcasters such as LPTV, or the right to reply. The fact that most proponents of localism do not advocate such direct policies towards localism tells me that this fight isn't really about localism.

And if that's the case, you should not become the arbiter between several industries, TV networks, station groups, and Hollywood syndicators. Media industries cherishing their independence should not call for the government to regulate them. It's asking for trouble. But if one can show clear and convincing public harm, that's one thing. If one can show local media power that permits its vertical extension, then some protective rules may be in order. But in the absence of such showing, I would not perpetuate old rules of national broadcasting ownership caps in an environment of new media.

Thank you very much for your kind attention

*Testimony by Eli M. Noam*

*Preliminary Draft*

*Professor of Finance and Economics, Columbia University, Director,  
Columbia Institute for Tele-Information; former Commissioner of  
Public Services, New York State*

Chairman Hollings, Senator McCain, members of the Commerce Committee, I am grateful to join you in discussing the important topic of media concentration and ownership rules. Let's start by agreeing that we all share an *intense* desire not to let the diversity of media voices be strangled by a few big companies. But the question is how to go about it.

There are many elements of ownership rules. Caps, cross-ownerships, foreign-domestic, minority. Each raises different issues. I will focus here on the national cap for TV broadcasters, though I'll be happy to address other issues as well later.

It would probably help us all if we first looked at the extent of media concentration, because that would take the edge of alarm off.

Yes, there have been lots of mergers. Some are troubling, some are not. Going beyond the specific deal, the more important question is, in the aggregate, have American media become more concentrated?

Despite the conventional wisdom, or books based on anecdotes rather than data, the answer is not an obvious "yes." First, while the fish in the pond have grown in size, the pond did grow, too, and faster. The growth of the information industry has been 8% faster than inflation since 1987. Second, there have been a lot of new fish. Giant Companies such as AOL, Microsoft, Viacom, Qwest, hardly existed a few years ago. Foreign companies such as Bertelsmann and

Vivendi are contesting the American market. Third, there are new and rapidly growing ponds, like the internet; and fourth, all these separate ponds are becoming more of a large lake, as the technological and regulatory dikes between them fall.

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